

THE UNITED STATES BANKRUPTCY COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA (PHILADELPHIA)

IN RE:	:	
BRIAN C. GARDNER	:	BK. No. 17-12660-mdc
ASHLEY M. GARDNER	:	
Debtors	:	Chapter No. 13
	:	
WELLS FARGO BANK, N.A.	:	
Movant	:	
v.	:	
BRIAN C. GARDNER	:	11 U.S.C. §362
ASHLEY M. GARDNER	:	
Respondents	:	

**MOTION OF WELLS FARGO BANK, N.A. FOR RELIEF FROM AUTOMATIC STAY
UNDER §362 PURSUANT TO BANKRUPTCY PROCEDURE RULE 4001**

Movant, by its attorneys, PHELAN HALLINAN DIAMOND & JONES, LLP, hereby requests a termination of Automatic Stay and leave to foreclose on its mortgage on real property owned by Debtors BRIAN GARDNER and ASHLEY SIMPSON.

1. Movant is **WELLS FARGO BANK, N.A.**
2. Debtors, BRIAN GARDNER and ASHLEY SIMPSON are the owners of the premises located at **704 CLYMER LANE, RIDLEY PARK, PA 19078-1311**, hereinafter known as the mortgaged premises.
3. Movant is the holder of a mortgage on the mortgaged premises.
4. Debtors' failure to tender monthly payments in a manner consistent with the terms of the Mortgage and Note result in a lack of adequate protection.
5. Debtor(s) executed a promissory note secured by a mortgage or deed of trust. The promissory note is either made payable to Creditor or has been duly indorsed. Creditor, directly or through an agent, has possession of the promissory note. Creditor is the original mortgagee or beneficiary or the assignee of the mortgage or deed of trust.
6. The terms of the Debt Agreement were amended by a loan modification agreement entered into by and between WELLS FARGO BANK, N.A. S/B/M Wells Fargo Home Mortgage and Debtors dated 11/5/2014 (the "Loan Modification Agreement").

7. As of October 10, 2018, Debtors have failed to tender post-petition mortgage payments for the months of August 2018 through October 2018. The monthly payment amount for the months of August 2018 through October 2018 is \$1,222.71 each, less suspense in the amount of \$4.25, for a total amount due of \$3,663.88. The next payment is due on or before November 1, 2018 in the amount of \$1,222.71.

8. Movant has cause to have the Automatic Stay terminated as to permit Movant to complete foreclosure on its mortgage.

9. Movant specifically requests permission from the Honorable Court to communicate with Debtors and Debtors' counsel to the extent necessary to comply with applicable nonbankruptcy law.

10. Movant requests that Federal Rule of Bankruptcy Procedure 3002.1 be waived.

WHEREFORE, Movant respectfully requests that this Court enter an Order;

a. modifying the Automatic Stay under Section 362 with respect to **704 CLYMER LANE, RIDLEY PARK, PA 19078-1311** (as more fully set forth in the legal description attached to the Mortgage of record granted against the Premises), as to allow Movant, its successors and assignees, to proceed with its rights under the terms of said Mortgage; and

b. Movant specifically requests permission from this Honorable Court to communicate with Debtors and Debtors' counsel to the extent necessary to comply with applicable nonbankruptcy law; and

c. waiving Federal Rule of Bankruptcy Procedure 3002.1; and

d. Granting any other relief that this Court deems equitable and just.

/s/ Thomas Song, Esquire
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